

110TH CONGRESS
2D SESSION

H. R. 6963

To amend title XXI of the Social Security Act to expand coverage options under the State Children's Health Insurance Program (SCHIP) through premium assistance.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2008

Mr. FORTENBERRY (for himself, Mr. BURGESS, Mr. SESSIONS, and Mr. TERRY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XXI of the Social Security Act to expand coverage options under the State Children's Health Insurance Program (SCHIP) through premium assistance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "SCHIP Plus Act of
5 2008".

1 SEC. 2. EXPANDING COVERAGE OPTIONS IN SCHIP
2 THROUGH PREMIUM ASSISTANCE.

3 (a) REQUIRING OFFERING OF ALTERNATIVE COV-
4 ERAGE OPTIONS.—Section 2102 of the Social Security Act
5 (42 U.S.C. 1397b) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (6), by striking “and” at
8 the end;

9 (B) in paragraph (7), by striking the pe-
10 riod at the end and inserting “; and”; and

11 (C) by adding at the end the following new
12 paragraph:

13 “(8) effective for plan years beginning on or
14 after October 1, 2009, how the plan will provide for
15 child health assistance with respect to applicable tar-
16 geted low-income children through alternative cov-
17 erage options in accordance with subsection (d).”;
18 and

19 (2) by adding at the end the following new sub-
20 section:

21 “(d) ALTERNATIVE COVERAGE OPTIONS.—

22 “(1) IN GENERAL.—Effective October 1, 2009,
23 a State child health plan shall provide for the offer-
24 ing of any qualified alternative coverage that a
25 qualified entity seeks to offer to applicable targeted
26 low-income children through the plan in the State.

1 “(2) APPLICATION OF UNIFORM FINANCIAL
2 LIMITATION FOR ALL ALTERNATIVE COVERAGE OP-
3 TIONS.—With respect to all qualified alternative cov-
4 erage offered in a State, the State child health plan
5 shall establish a uniform dollar limitation on the per
6 capita monthly amount that will be paid by the
7 State to the qualified entity with respect to such
8 coverage provided to a targeted low-income child.
9 Such limitation may not be less than 90 percent of
10 the per capita monthly payment made for coverage
11 offered under the State child health plan that is not
12 in the form of an alternative coverage option. Noth-
13 ing in this paragraph shall be construed—

14 “(A) as requiring a State to provide for
15 the full payment of premiums for qualified al-
16 ternative coverage;

17 “(B) as preventing a State from charging
18 additional premiums to cover the difference be-
19 tween the cost of qualified alternative coverage
20 and the amount of such payment limitation;

21 “(C) as preventing a State from using its
22 own funds to provide a dollar limitation that ex-
23 ceeds the Federal financial participation as lim-
24 ited under section 2105(c)(8).

1 “(3) QUALIFIED ALTERNATIVE COVERAGE DE-
 2 FINED.—In this section, the term ‘qualified alter-
 3 native coverage’ means health insurance coverage
 4 that—

5 “(A) meets the coverage requirements of
 6 section 2103 (other than cost-sharing require-
 7 ments of such section); and

8 “(B) is offered by a qualified insurer, and
 9 not directly by the State.

10 “(4) QUALIFIED INSURER DEFINED.—In this
 11 section, the term ‘qualified insurer’ means, with re-
 12 spect to a State, an entity that is licensed to offer
 13 health insurance coverage in the State.

14 “(5) APPLICABLE TARGETED LOW-INCOME
 15 CHILDREN DEFINED.—In this title, the term ‘appli-
 16 cable targeted low-income children’ means targeted
 17 low-income children with family income that does
 18 not exceed 200 percent of the poverty line applicable
 19 to family of the size involved.”.

20 (b) FEDERAL FINANCIAL PARTICIPATION FOR
 21 QUALIFIED ALTERNATIVE COVERAGE.—Section 2105 of
 22 such Act (42 U.S.C. 1397d) is amended—

23 (1) in subsection (a)(1)(C), by inserting before
 24 the semicolon at the end the following: “and, subject
 25 to paragraph (8)(C), in the form of payment of the

premiums for coverage for qualified alternative coverage”; and

(2) by adding at the end of subsection (c) the following new paragraph:

“(8) PURCHASE OF QUALIFIED ALTERNATIVE COVERAGE.—

“(A) IN GENERAL.—Payment may be made to a State under subsection (a)(1)(C), subject to the provisions of this paragraph, for the purchase of qualified alternative coverage for applicable targeted low-income children.

“(B) WAIVER OF CERTAIN PROVISIONS.—With respect to coverage described in subparagraph (A), no limitation on beneficiary cost-sharing otherwise applicable under this title or title XIX shall apply.

“(C) LIMITATION ON FFP.—The amount of the payment under paragraph (1)(C) for coverage described in subparagraph (A) during a fiscal year in the aggregate for all such coverage in the State may not exceed the product of—

“(i) the national per capita expenditure under this title (taking into account both Federal and State expenditures) for

the previous fiscal year (as determined by the Secretary using the best available data);

“(ii) the enhanced FMAP for the State and fiscal year involved; and

“(iii) the number of targeted low-income children for whom such coverage is provided.

“(D) VOLUNTARY ENROLLMENT.—A State child health plan—

“(i) may not require a targeted low-income child to enroll in coverage described in subparagraph (A) in order to obtain child health assistance under this title;

“(ii) before providing such child health assistance for such coverage of a child, shall make available (which may be through an Internet website or other means) to the parent or guardian of the child information on the coverage available under this title, including benefits and cost-sharing; and

“(iii) shall—

“(I) provide at least one opportunity per fiscal year for beneficiaries

1 to switch coverage under this title
2 from coverage described in subpara-
3 graph (A) to the coverage that is oth-
4 erwise made available under this title;
5 and

6 “(II) permit beneficiaries to
7 switch such coverage under such other
8 circumstances, such as the change in
9 employment, birth of a child, or
10 change in households, as the Sec-
11 retary specifies.

12 “(E) INFORMATION ON COVERAGE OP-
13 TIONS.—A State child health plan shall—

14 “(i) describe how the State will notify
15 potential beneficiaries of coverage de-
16 scribed in subparagraph (A);

17 “(ii) provide such notification in writ-
18 ing at least during the initial application
19 for enrollment under this title and during
20 redeterminations of eligibility if the indi-
21 vidual was enrolled before October 1, 2009;
22 and

23 “(iii) post a description of these cov-
24 erage options on any official website that

1 may be established by the State in connec-
2 tion with the plan.

3 “(F) RULE OF CONSTRUCTION.—Nothing
4 in this section is to be construed to prohibit a
5 State from—

6 “(i) establishing limits on beneficiary
7 cost-sharing under such alternative cov-
8 erage;

9 “(ii) paying all or part of a bene-
10 fiary’s cost-sharing requirements under
11 such coverage;

12 “(iii) paying less than the full cost of
13 a child’s share of the premium under such
14 coverage, insofar as the premium for such
15 coverage exceeds the limitation established
16 by the State under subparagraph (C);

17 “(iv) using State funds to pay for
18 benefits above the Federal upper limit es-
19 tablished under subparagraph (C); or

20 “(v) providing any guidance or infor-
21 mation it deems appropriate in order to
22 help beneficiaries make an informed deci-
23 sion regarding the option to enroll in cov-
24 erage described in subparagraph (A).”.

1 SEC. 3. EASING ADMINISTRATIVE BARRIERS TO STATE CO-
2 OPERATION WITH EMPLOYER-SPONSORED
3 INSURANCE COVERAGE.

4 (a) REQUIRING SOME COVERAGE FOR EMPLOYER-
5 SPONSORED INSURANCE.—

6 (1) IN GENERAL.—Section 2102(a) of the So-
7 cial Security Act (42 U.S.C. 1397b(a)), as amended
8 by section 2(a), is amended—

9 (A) in paragraph (7), by striking “and” at
10 the end;

11 (B) in paragraph (8), by striking the pe-
12 riod at the end and inserting “; and”; and

13 (C) by adding at the end the following new
14 paragraph:

15 “(9) effective for plan years beginning on or
16 after October 1, 2009, how the plan will provide for
17 child health assistance with respect to targeted low-
18 income children covered under a group health
19 plan.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall apply beginning with fiscal
22 year 2010.

23 (b) FEDERAL FINANCIAL PARTICIPATION FOR EM-
24 PLOYER-SPONSORED INSURANCE.—Section 2105 of such
25 Act (42 U.S.C. 1397d) is amended—

(1) in subsection (a)(1)(C), as amended by section 3(b), by inserting before the semicolon at the end the following: “and, subject to paragraph (3)(C), in the form of payment of the premiums for coverage under a group health plan that includes coverage of targeted low-income children and benefits supplemental to such coverage”; and

(2) paragraph (3) of subsection (c) is amended to read as follows:

“(3) PURCHASE OF EMPLOYER-SPONSORED INSURANCE.—

“(A) IN GENERAL.—Payment may be made to a State under subsection (a)(1)(C), subject to the provisions of this paragraph, for the purchase of family coverage under a group health plan that includes coverage of targeted low-income children unless such coverage would otherwise substitute for coverage that would be provided to such children but for the purchase of family coverage.

“(B) WAIVER OF CERTAIN PROVISIONS.—With respect to coverage described in subparagraph (A)—

“(i) notwithstanding section 2102, no minimum benefits requirement (other than

those otherwise applicable with respect to services referred to in section 2102(a)(7)) under this title shall apply; and

“(ii) no limitation on beneficiary cost-sharing otherwise applicable under this title or title XIX shall apply.

“(C) REQUIRED PROVISION OF SUPPLEMENTAL BENEFITS.—If the coverage described in subparagraph (A) does not provide coverage for the services referred to in section 2102(a)(7), the State child health plan shall provide coverage of such services as supplemental benefits.

“(D) LIMITATION ON FFP.—The amount of the payment under paragraph (1)(C) for coverage described in subparagraph (A) (and supplemental benefits under subparagraph (C) for individuals so covered) during a fiscal year may not exceed the product of—

“(i) the national per capita expenditure under this title (taking into account both Federal and State expenditures) for the previous fiscal year (as determined by the Secretary using the best available data);

1 “(ii) the enhanced FMAP for the
2 State and fiscal year involved; and

3 “(iii) the number of targeted low-in-
4 come children for whom such coverage is
5 provided.

6 “(E) VOLUNTARY ENROLLMENT.—A State
7 child health plan—

8 “(i) may not require a targeted low-
9 income child to enroll in coverage described
10 in subparagraph (A) in order to obtain
11 child health assistance under this title;

12 “(ii) before providing such child
13 health assistance for such coverage of a
14 child, shall make available (which may be
15 through an Internet website or other
16 means) to the parent or guardian of the
17 child information on the coverage available
18 under this title, including benefits and
19 cost-sharing; and

20 “(iii) shall—

21 “(I) provide at least one oppor-
22 tunity per fiscal year for beneficiaries
23 to switch coverage under this title
24 from coverage described in subpara-
25 graph (A) to the coverage that is oth-

erwise made available under this title;
and

“(II) permit beneficiaries to
switch such coverage under such other
circumstances, such as the change in
employment, birth of a child, or
change in households, as the Sec-
retary specifies.

“(F) INFORMATION ON COVERAGE OP-
TIONS.—A State child health plan shall—

“(i) describe how the State will notify
potential beneficiaries of coverage de-
scribed in subparagraph (A);

“(ii) provide such notification in writ-
ing at least during the initial application
for enrollment under this title and during
redeterminations of eligibility if the indi-
vidual was enrolled before October 1, 2009;
and

“(iii) post a description of these cov-
erage options on any official website that
may be established by the State in connec-
tion with the plan.

“(G) SEMIANNUAL VERIFICATION OF COV-
ERAGE.—If coverage described in subparagraph

1 (A) is provided under a group health plan with
2 respect to a targeted low-income child, the
3 State child health plan shall provide for the col-
4 lection, at least once every six months, of proof
5 from the plan that the child is enrolled in such
6 coverage.

7 “(H) RULE OF CONSTRUCTION.—Nothing
8 in this section is to be construed to prohibit a
9 State from—

10 “(i) offering wrap around benefits in
11 order for a group health plan to meet any
12 State-established minimum benefit require-
13 ments;

14 “(ii) establishing a cost-effectiveness
15 test to qualify for coverage under such a
16 plan;

17 “(iii) establishing limits on beneficiary
18 cost-sharing under such a plan;

19 “(iv) paying all or part of a bene-
20 ficiary’s cost-sharing requirements under
21 such a plan;

22 “(v) paying less than the full cost of
23 the employee’s share of the premium under
24 such a plan, including prorating the cost of
25 the premium to pay for only what the

1 State determines is the portion of the pre-
 2 mium that covers targeted low-income chil-
 3 dren;

4 “(vi) using State funds to pay for
 5 benefits above the Federal upper limit es-
 6 tablished under subparagraph (C);

7 “(vii) allowing beneficiaries enrolled in
 8 group health plans from changing plans to
 9 another coverage option available under
 10 this title at any time; or

11 “(viii) providing any guidance or in-
 12 formation it deems appropriate in order to
 13 help beneficiaries make an informed deci-
 14 sion regarding the option to enroll in cov-
 15 erage described in subparagraph (A).

16 “(I) GROUP HEALTH PLAN DEFINED.—In
 17 this paragraph, the term ‘group health plan’
 18 has the meaning given such term in section
 19 2791(a)(1) of the Public Health Service Act (42
 20 U.S.C. 300gg-91(a)(1)).”.

21 **SEC. 4. EMPLOYEE NOTIFICATION OF PREMIUM ASSIST-**
 22 **ANCE OPPORTUNITIES.**

23 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
 24 1986.—Section 9801(f) of the Internal Revenue Code of

1 1986 (relating to special enrollment periods) is amended
2 by adding at the end the following new paragraph:

3 “(3) OUTREACH TO EMPLOYEES REGARDING
4 AVAILABILITY OF SCHIP COVERAGE.—

5 “(A) IN GENERAL.—Each employer that
6 maintains a group health plan in a State that
7 provides child health assistance under a State
8 child health plan under title XXI of the Social
9 Security Act, in the form of premium assistance
10 for the purchase of coverage under a group
11 health plan, shall provide to each employee a
12 written notice informing the employee of poten-
13 tial opportunities then currently available in the
14 State in which the employee resides for pre-
15 mium assistance under such plans for health
16 coverage of the employee’s dependents. For pur-
17 poses of compliance with this clause, the em-
18 ployer may use any State-specific model notice
19 developed in accordance with section
20 701(f)(3)(B) of the Employee Retirement In-
21 come Security Act of 1974 (29 U.S.C.
22 1181(f)(3)(B)).

23 “(B) OPTION TO PROVIDE CONCURRENT
24 WITH PROVISION OF PLAN MATERIALS TO EM-
25 PLOYEE.—An employer may provide the model

notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).”.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(A) IN GENERAL.—Section 701(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)) is amended by adding at the end the following new paragraph:

“(3) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF SCHIP COVERAGE.—

“(A) IN GENERAL.—Each employer that maintains a group health plan in a State that provides child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan,

1 shall provide to each employee a written notice
2 informing the employee of potential opportuni-
3 ties then currently available in the State in
4 which the employee resides for premium assist-
5 ance under such plans for health coverage of
6 the employee or the employee's dependents.

7 “(B) MODEL NOTICE.—Not later than 1
8 year after the date of enactment of this para-
9 graph, the Secretary and the Secretary of
10 Health and Human Services, in consultation
11 with Directors of State SCHIP agencies under
12 title XXI of such Act, shall jointly develop na-
13 tional and State-specific model notices for pur-
14 poses of subparagraph (A). The Secretary shall
15 provide employers with such model notices so as
16 to enable employers to timely comply with the
17 requirements of subparagraph (A). Such model
18 notices shall include information regarding how
19 an employee may contact the State in which the
20 employee resides for additional information re-
21 garding potential opportunities for such pre-
22 mium assistance, including how to apply for
23 such assistance.

24 “(C) OPTION TO PROVIDE CONCURRENT
25 WITH PROVISION OF PLAN MATERIALS TO EM-

1 PLOYEE.—An employer may provide the model
2 notice applicable to the State in which an em-
3 ployee resides concurrent with the furnishing of
4 materials notifying the employee of health plan
5 eligibility, concurrent with materials provided to
6 the employee in connection with an open season
7 or election process conducted under the plan, or
8 concurrent with the furnishing of the summary
9 plan description as provided in section 104(b).”.

10 (B) CONFORMING AMENDMENT.—Section
11 102(b) of the Employee Retirement Income Se-
12 curity Act of 1974 (29 U.S.C. 1022(b)) is
13 amended—

14 (i) by striking “and the remedies”
15 and inserting “, the remedies”; and

16 (ii) by inserting before the period the
17 following: “, and if the employer so elects
18 for purposes of complying with section
19 701(f)(3)(B)(i), the model notice applicable
20 to the State in which the participants and
21 beneficiaries reside”.

22 (C) EFFECTIVE DATES.—The Secretary of
23 Labor and the Secretary of Health and Human
24 Services shall develop the initial model notices
25 under section 701(f)(3)(B) of the Employee Re-

1 tirement Income Security Act of 1974, and the
2 Secretary of Labor shall provide such notices to
3 employers, not later than the date that is 1
4 year after the date of enactment of this Act,
5 and each employer shall provide the initial an-
6 nual notices to such employer's employees be-
7 ginning with the first plan year that begins
8 after the date on which such initial model no-
9 tices are first issued.

10 (2) AMENDMENTS TO PUBLIC HEALTH SERVICE
11 ACT.—Section 2701(f) of the Public Health Service
12 Act (42 U.S.C. 300gg(f)) is amended by adding at
13 the end the following new paragraph:

14 “(3) OUTREACH TO EMPLOYEES REGARDING
15 AVAILABILITY OF SCHIP COVERAGE.—

16 “(A) IN GENERAL.—Each employer that
17 maintains a group health plan in a State that
18 provides child health assistance under a State
19 child health plan under title XXI of such Act,
20 in the form of premium assistance for the pur-
21 chase of coverage under a group health plan,
22 shall provide to each employee a written notice
23 informing the employee of potential opportuni-
24 ties then currently available in the State in
25 which the employee resides for premium assist-

1 ance under such plans for health coverage of
2 the employee or the employee's dependents. For
3 purposes of compliance with this subelause, the
4 employer may use any State-specific model no-
5 tice developed in accordance with section
6 701(f)(3)(B) of the Employee Retirement In-
7 come Security Act of 1974 (29 U.S.C.
8 1181(f)(3)(B)).

9 “(B) OPTION TO PROVIDE CONCURRENT
10 WITH PROVISION OF PLAN MATERIALS TO EM-
11 PLOYEE.—An employer may provide the model
12 notice applicable to the State in which an em-
13 ployee resides concurrent with the furnishing of
14 materials notifying the employee of health plan
15 eligibility, concurrent with materials provided to
16 the employee in connection with an open season
17 or election process conducted under the plan, or
18 concurrent with the furnishing of the summary
19 plan description as provided in section 104(b)
20 of the Employee Retirement Income Security
21 Act of 1974.”.

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